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RUEHBUL/AMEMBASSY KABUL IMMEDIATE 0533
RUEHUL/AMEMBASSY SEOUL IMMEDIATE 6184
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RUEHNH/AMCONSUL NAHA IMMEDIATE 6808
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C O N F I D E N T I A L SECTION 01 OF 02 TOKYO 005236

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SUBJECT: DECISION TIME FOR OPPOSITION AS OEF BILL REACHES
UPPER HOUSE

Classified By: CDA Joe Donovan, reasons 1.4(b),(d).

¶1. (C) Summary. Legislation authorizing the resumption of refueling for coalition vessels engaged in anti-terror operations in the Indian Ocean was forwarded to the opposition-controlled Upper House on November 14. MOFA assured Embassy Tokyo that the new bill will not/not add restrictions on the use of Japanese-supplied fuel. The opposition must now decide whether to vote the bill up or down, or hold it for up to 60 days. The DPJ may stall deliberations by introducing its own legislative measures, including one aimed at rescinding the Iraq Special Measures Law. If the OEF bill is rejected, the ruling coalition can use its two-thirds majority in the Lower House to override the Upper House and pass the bill into law. Komeito has indicated that it will now support an override vote, but much will depend on the political situation and public opinion. Either way, little is expected to happen until after Prime Minister Fukuda returns from his overseas travels on November ¶19. End Summary.

¶2. (C) New anti-terror special measures legislation to authorize the resumption of Japan's support for Operation Enduring Freedom (OEF) was forwarded to the opposition-controlled Upper House on November 14, one day after clearing the Lower House. Attention now turns to the main opposition Democratic Party of Japan (DPJ), which can either vote the bill up or down, or hold it for a maximum of 60 days.

Option A: Do Nothing

¶3. (C) The worst case scenario for both the ruling Liberal Democratic Party (LDP)-Komeito coalition and the DPJ is that the Upper House sits on the bill for the remainder of the extraordinary Diet session and runs out the clock. The Upper House can hold a bill passed by the Lower House for up to 60 days, before it can be returned to the Lower House and passed into law by a two-thirds majority. The problem for the ruling coalition is that while they have the votes to

override, they can't afford to wait for 60 days. The Diet session has already been extended by 35 days to December 15, meaning the DPJ only needs to sit on the measure for a total of 32 days before the session expires. The Diet Law allows for one further extension, but the session would have to be extended to some point beyond January 12 to allow 60 days for the Upper House and a few additional days for the Lower House to exercise its override power. As it is, the current 35-day extension is already cutting well into budget compilation season. Another long extension would also eat into the ordinary Diet session, which must convene in January.

14. (C) For the DPJ, failure to take some form of action on the bill could raise questions of their ability to one day take the reins of government as a responsible party. In addition, if the DPJ really wanted to play hardball, they could just pass their own version of the OEF bill, rendering further deliberations on the government's bill obsolete.

Option B: Find Common Ground

15. (C) Passage of the OEF bill in the Upper House during the remainder of the current Diet session is highly unlikely, despite recent signs that the LDP and DPJ are willing to engage in policy discussions and seek compromise on other legislation. Both sides have simply staked too much on their positions on the OEF bill to back down now, particularly after Prime Minister Yasuo Fukuda and DPJ leader Ichiro Ozawa were so roundly criticized for attempting to seek a mutual accommodation to overcome Japan's legislative gridlock. The only conceivable reason for the opposition to support the ruling coalition bill now, absent some sudden major swing in

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public opinion in support of resuming the Maritime Self-Defense Forces (MSDF) mission, would be if they thought they could wring some other major concession from the government.

Option C: Just Say No

16. (C) The most likely scenario at this point is that the opposition will stall for some as yet undecided period of time, before eventually voting the bill down, leaving the ruling parties sufficient time to use the override power. The opposition has a variety of means at its disposal for delaying or slowing deliberations in the Upper House, including submission of its own legislation. The DPJ has made no secret of plans to introduce a bill to rescind the Iraq Special Measures Law and withdraw Self-Defense Forces units deployed in support of Operation Iraqi Freedom (OIF). The bill stands no chance of passing in the Lower House, but could bottle up deliberations in the same Upper House committee that is considering the OEF measure for weeks. The opposition can also use its investigatory powers to tie up committee meetings with the ongoing inquiry into several recent defense-related scandals. If they need more time, the DPJ has a long list of livelihood related bills it has promised to introduce.

17. (C) Simply having the opposition vote down the bill in the Upper House is only half of the equation, however, as the ruling parties will then need to decide whether to exercise the override power or not. That calculation will depend heavily on the political situation at the time, including public support levels for both Prime Minister Fukuda and the OEF bill itself. Junior coalition partner Komeito has indicated recently that is likely to support a re-vote. Public opinion regarding the DPJ's handling of the issue will also play an important role. At this point, the DPJ is threatening to counter a Lower House override with an Upper House censure motion. Such a motion is not binding, but could put the Prime Minister in a position where he feels he must dissolve the Lower House and call a snap election. A

censure motion could also bring further legislative activity to a standstill, although that may no longer be a consideration by that time. Another concern for the ruling parties is that forced passage of the OEF bill could stymie any chance for cooperation on key budget related legislation in the upcoming ordinary Diet session.

New Bill Limited to OEF/MIO

18. (C) The bill approved by the Lower House on November 13 limits the provision of fuel and water by the MSDF to coalition vessels engaged in anti-terrorism efforts in the Indian Ocean. MOFA National Security Division Director Takeo Mori commented that the bill itself will not refer to any specific new requirements for tracking Japanese-provided oil other than a vague reference to "consultations" with coalition consumers on usage. Mori said that as long as the coalition vessel that receives Japanese fuel has MIO-related orders, even if it is engaged in multiple missions, Japan will consider the refueling as "legal," even if orders subsequently change due to operational requirements. However, in anticipation of Diet debate on future renewals, Japan is considering options for a new reporting mechanism to track usage. Mori said that Japan is sensitive to adding any additional bureaucratic burdens to coalition members and is reviewing measures that would require minimal extra effort from coalition forces.

DONOVAN